

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

April 7, 2021

1:09 p.m.

MEMBERS PRESENT

Representative Josiah Patkotak, Chair
Representative Grier Hopkins, Vice Chair
Representative Zack Fields
Representative Calvin Schrage
Representative Sara Hannan
Representative George Rauscher
Representative Mike Cronk
Representative Ronald Gillham
Representative Tom McKay

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE JOINT RESOLUTION NO. 8 (RES)
Urging the Alaska delegation in Congress, the United States Department of the Interior, and the Governor to facilitate a land grant endowment to the University of Alaska; urging the Alaska delegation in Congress to reintroduce the University of Alaska Fiscal Foundation Act; and urging the Department of Natural Resources to work with the University of Alaska to identify lands suitable for the land endowment.

- HEARD & HELD

HOUSE BILL NO. 156

"An Act relating to industrial hemp; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SJR 8

SHORT TITLE: COMPLETION OF UNIVERSITY LAND GRANT

SPONSOR(S): SENATOR(S) STEVENS

02/03/21 (S) READ THE FIRST TIME - REFERRALS

02/03/21	(S)	EDC, RES
02/15/21	(S)	EDC AT 9:00 AM BUTROVICH 205
02/15/21	(S)	Moved SJR 8 Out of Committee
02/15/21	(S)	MINUTE(EDC)
02/17/21	(S)	EDC RPT 5DP
02/17/21	(S)	DP: HOLLAND, HUGHES, STEVENS, MICCICHE, BEGICH
03/12/21	(S)	RES AT 3:30 PM BUTROVICH 205
03/12/21	(S)	-- MEETING CANCELED --
03/15/21	(S)	RES AT 3:30 PM BUTROVICH 205
03/15/21	(S)	Moved CSSJR 8(RES) Out of Committee
03/15/21	(S)	MINUTE(RES)
03/17/21	(S)	RES RPT CS 6DP NEW TITLE
03/17/21	(S)	DP: REVAK, STEVENS, MICCICHE, BISHOP, VON IMHOF, KIEHL
03/22/21	(S)	TRANSMITTED TO (H)
03/22/21	(S)	VERSION: CSSJR 8(RES)
03/24/21	(H)	READ THE FIRST TIME - REFERRALS
03/24/21	(H)	RES
04/07/21	(H)	RES AT 1:00 PM BARNES 124

BILL: HB 156

SHORT TITLE: INDUSTRIAL HEMP PROGRAM;MANUFACTURING

SPONSOR(s): REPRESENTATIVE(s) HOPKINS

03/29/21	(H)	READ THE FIRST TIME - REFERRALS
03/29/21	(H)	L&C, RES
03/31/21	(H)	L&C REFERRAL REMOVED
03/31/21	(H)	FIN REFERRAL ADDED AFTER RES
03/31/21	(H)	BILL REPRINTED
04/07/21	(H)	RES AT 1:00 PM BARNES 124

WITNESS REGISTER

TIM LAMKIN, Staff
 Senator Gary Stevens
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced SJR 8 on behalf of Senator Stevens, prime sponsor.

ED FOGELS, Partner
 Jade North, LLC
 Anchorage, Alaska

POSITION STATEMENT: Presented a PowerPoint during the hearing on SJR 8.

TOM BRICE, Vice President
UAF Alumni Association Board of Directors
Alumni Relations
University of Alaska, Fairbanks (UAF)
Juneau, Alaska

POSITION STATEMENT: Testified in support of SJR 8.

REPRESENTATIVE GRIER HOPKINS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 156.

JOE HARDENBROOK, Staff
Representative Grier Hopkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions and provided information during the hearing on HB 156 on behalf of Representative Grier Hopkins, prime sponsor.

DAVE SCHADE, Director
Division of Agriculture
Department of Natural Resources
Palmer, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 156.

ROB CARTER, Manager
Plant Materials Center
Division of Agriculture
Department of Natural Resources
Palmer, Alaska

POSITION STATEMENT: Provided information and answered questions during the hearing on HB 156.

EMBER HAYNES
Talkeetna, Alaska

POSITION STATEMENT: Testified in support of HB 156.

ACTION NARRATIVE

[1:09:48 PM](#)

CHAIR JOSIAH PATKOTAK called the House Resources Standing Committee meeting to order at 1:09 p.m. Representatives McKay, Fields, Cronk, Hopkins, Rauscher, Hannan, Schrage, and Patkotak

were present at the call to order. Representative Gillham arrived as the meeting was in progress.

SJR 8-COMPLETION OF UNIVERSITY LAND GRANT

[1:10:34 PM](#)

CHAIR PATKOTAK announced that the first order of business would be CS FOR SENATE JOINT RESOLUTION NO. 8(RES) Urging the Alaska delegation in Congress, the United States Department of the Interior, and the Governor to facilitate a land grant endowment to the University of Alaska; urging the Alaska delegation in Congress to reintroduce the University of Alaska Fiscal Foundation Act; and urging the Department of Natural Resources to work with the University of Alaska to identify lands suitable for the land endowment.

[1:11:15 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, introduced SJR 8 on behalf of Senator Stevens, prime sponsor. He said that there is a "generally held belief that there is a land deficit held by the University of Alaska (UA)" and that SJR 8 is intended to give UA more financial management options, thereby decreasing its reliance on the general fund. He explained that SJR 8 requests the governor, Alaska's congressional delegation, and the U.S. Department of the Interior to work together to complete the federal land grand endowment to UA.

[1:12:51 PM](#)

ED FOGELS, Partner, Jade North, LLC, explained that he had been retained by UA to assist with land grant issues and presented a PowerPoint on SJR 8 [hard copy included in the committee packet], titled "University of Alaska Land Grant Status." He began with slide 3, titled "University Land Grant," which displayed a map showing the size of Alaska in comparison to the contiguous United States and read as follows [original punctuation provided]:

- Only Delaware & Hawaii rank below Alaska in higher education land grants
- UA only received ~ 110,000 acres of its federal land grant entitlement

- UA's land grant deficit is 360,000 acres

MR. FOGELS explained that more lands were expected to come to UA through various federal acts, but the acts "never did materialize this additional land grant entitlement." He then showed slide 4, titled "UA Land Holdings" which showed a pie chart illustrating that the currently-held lands include 139,000 acres of investment land representing 27 percent of the total entitlement, as well as the missing 360,000 acres representing 71 percent.

MR. FOGELS moved ahead to slide 5, titled "UA Land Grant Acreage Comparison," which compared UA and Mental Health Trust Land (MHTL) with the University of Texas land grant, which totals 2.1 million acres.

MR. FOGELS paraphrased slides 6,7, and 8, titled "Land Grant History," which read as follows [original punctuation provided]:

Pre-Statehood Federal Laws for UA Lands

- **1862 Morrill Act:** Each state upon admission was to receive 30,000 acres per each member of Congress (90,000 acres for Alaska) dedicated to higher education. Provisions not extended to Alaska at Statehood and so no acreage was conveyed to UA.
- **1915 "Wickersham" Land Grant Statute:** Reserved an estimated 336,000 acres in Tanana Valley area. Lands remained largely unsurveyed and less than 5% were ever conveyed to UA.
- **1929 "Sutherland" Land Grant Statute:** Congress grants 100,000 acres for UA. Left intact at Statehood, and acreage is (eventually) conveyed to UA, where it makes up most of current land holdings.
- Following Statehood, the Alaska Legislature tries to provide UA's land. In **1959** a bill reserving 1 million acres, passes both Houses, but is vetoed
- During **60's-80's** available land base become narrower with the Land Freeze and passage other federal legislation

- Alaska Legislature in **2000** passes bill, and overrides gubernatorial veto, to grant UA 260,000 acres
- In **2004**, Alaska Supreme Court rules land conveyance is not an appropriation, but declines to address dedication clause issue 8 Land Grant History
- **2005:** Legislation identifies specific lands for transfer to UA (HB 130)
- **2007:** Environmental group sues arguing land transfer violates Constitution's anti-dedication clause (Article 9, Section 7)
- **2009:** Alaska Supreme Court agrees and sticks down the 2000/2005 legislation. State can't make a land grant to UA that "would operate in a manner similar to the way that the University's federal land grant has operated since before statehood."
- **2010:** UA begins transferring land back to the state
- **Today:** UA owns ~151,000 acres, most from 1929 Sutherland Act, private party donations, as well as from local governments.

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MR. FOGELS presented slide 10, "Framework for Solution," which read as follows [original punctuation provided]:

- UA's unfulfilled land grant a Statehood Act issue
- Congress assumed Alaska Legislature would be able to fulfill the entitlement
- Alaska Delegation, Governor, DNR and Dept. of Interior are discussing other issues related to Alaska's remaining 5 million acre Statehood Act land selections
- Anti-dedication clause has an explicit exemption: "when required by the federal government for state participation in federal programs"

- Solution may entail a structured federal program permissible under the constitution

MR. FOGELS presented slide 11, "University of Alaska Fiscal Foundation Act," which read as follows [original punctuation provided]:

- Federal legislation by Alaska's Congressional Delegation
- Establishes program within Bureau of Land Management to identify and convey available lands to UA from lands selected by State of Alaska
- Framework for UA and State to jointly identify up to 360,000 acres
- U.S. Dept. of Interior will provide technical assistance identifying lands for inclusion in program
- Delegation working towards reintroduction in 117th Congress

MR. FOGELS concluded his presentation by asserting that "there's no question that a larger land endowment for the university would make it a much, much stronger university system," and he encouraged committee members to support SJR 8.

[1:23:55 PM](#)

The committee took an at-ease from 1:24 p.m. to 1:28 p.m.

[1:28:20 PM](#)

REPRESENTATIVE HANNAN asked for clarification on Mr. Fogels' position with UA and the parameters of his involvement with SJR 8.

MR. FOGELS replied that he is based in Alaska and that his role is to make recommendations to UA regarding the land grant.

REPRESENTATIVE HANNAN referred to Mr. Fogels' assertion that the federal government has taken the stance that UA is no longer owed land because the State of Alaska already received land. She then asked Mr. Fogels whether she is correct in saying that UA is asking for 360,000 acres of land in Alaska currently held by the federal government.

MR. FOGELS replied that the 360,000 acres UA hopes to acquire would be federal land which has already been "tagged" for potential transfer to the state; UA is not able to select federal lands outside of the pool selected by the state. He said that the federal government is giving the state 5 million acres, of which 360,000 acres would be diverted to UA.

REPRESENTATIVE HANNAN noted that there are still several local governments throughout the state which either haven't received their full transfer, or have yet to form a first-class borough to make land selections possible. She asked Mr. Fogels whether he knows where local government allocations stand in the land selection process.

MR. FOGELS said that he knows that most municipalities are nearing completion of the municipal entitlements; however, some are not, and UA is identifying potential lands for acquisition and submitting them to the Department of Natural Resources (DNR) for review and a best interest finding. He explained that there would be a public notice and any potential conflicts or encumbrances on specific lands would be uncovered.

[1:35:08 PM](#)

CHAIR PATKOTAK opened public testimony on SJR 8.

[1:35:28 PM](#)

TOM BRICE, Vice President, UAF Alumni Association Board of Directors, Alumni Relations, University of Alaska, Fairbanks (UAF) testified in support of SJR 8 and noted the letter of support from the UAF Alumni Association [hard copy included in committee packet]. He stressed the importance of diversifying UA's funding sources, which promotes economic growth and stability.

[1:37:39 PM](#)

CHAIR PATKOTAK, after ascertaining that no one else wished to testify, closed public testimony on SJR 8.

[SJR 8 was held over.]

HB 156-INDUSTRIAL HEMP PROGRAM;MANUFACTURING

[1:38:16 PM](#)

CHAIR PATKOTAK announced that the final order of business would be HOUSE BILL NO. 156 "An Act relating to industrial hemp; and providing for an effective date."

[1:39:15 PM](#)

The committee took a brief at-ease at 1:39 p.m.

[1:39:56 PM](#)

REPRESENTATIVE GRIER HOPKINS, Alaska State Legislature, as prime sponsor presented HB 156. He noted his partnership with Senator Shelly Hughes in advancing the proposed legislations. He read a statement as follows:

As my staff will elaborate later, there are federal timelines which require action by the Alaska State Legislature this year in order to keep our fledgling industrial hemp industry alive, progressing, and in compliance with federal law. Today, Alaskan farmers are growing industrial hemp for animal feed; nutraceuticals, which are nutritional supplements; manufacturing; and other uses. Farmers in Alaska have been growing hemp for several years, since our pilot project went into place. I would note for the committee that industrial hemp, as governed by federal law, is a different industry entirely than Alaska's state-licensed, recreational marijuana program. In 2018, the Thirtieth Alaska [State] Legislature saw the unanimous passage of Senate Bill 6, which established a pilot industrial hemp program in Alaska. With the passage, then, of the federal 2018 Farm Bill, the United States Congress changed federal requirements for state industrial hemp programs. HB 156 will empower the Alaska Division of Agriculture to work constructively with Alaskan farmers, both small- and large-scale, and the federal government, to create a new industrial hemp program compliant with federal guidelines. It is my hope that these changes will result in the continued development of a new and thriving industry for Alaska's farmers and manufacturers, diversify our economy, and increase state revenues.

[1:42:02 PM](#)

JOE HARDENBROOK, Staff, Representative Grier Hopkins, Alaska State Legislature, on behalf of Representative Hopkins, prime sponsor, detailed the Sectional Analysis of HB 156 [included in the committee packet], which read as follows [original punctuation provided]:

Section 1 Two subsections added to this section authorizing the commissioner of the Department of Natural Resources to include the manufacturing and retail sales of products made from industrial hemp, as well as registration and renewal procedures, in the regulations for the industrial hemp program.

Section 2 Gives the DNR Commissioner the ability to work constructively with a grower if their crop tests above .3% but below 1.0% THC.

Section 3 Adds language that a registrant for the industrial hemp program is not eligible if they had been convicted of a felony involving a controlled substance within the last ten years. This section is added to comply with provisions of the 2018 Farm Bill.

Section 4 Adds that the department may develop an industrial hemp program that complies with federal requirements and submit a plan for the program to USDA for approval.

Section 5 A grower may retain and recondition their crop if it tests above .3% but below 1.0% THC.

Section 6 A new subsection adds that a person who retains but fails to recondition is guilty of a violation.

Section 7 Changes the statutory definition of industrial hemp to match the federal definition which was changed in the 2018 Farm Bill.

Section 8 Repeals AS 03.05.077 the Industrial Hemp Pilot Program

Section 9 Conditional effect for Section 7 of the bill, in that the Pilot Program statute is repealed when the Industrial Hemp Program developed by the department is approved by the USDA.

Section 10 Effective date language stating that if section 7 is repealed under the conditions of section 8, the effective date of section 7 is the day after notice is received by the revisor of statutes by the Commissioner of Natural Resources.

[1:50:15 PM](#)

REPRESENTATIVE SCHRAGE asked what "reconditioning" means.

MR. HARDENBROOK explained that a farmer with a crop showing tetrahydrocannabinol (THC) levels above the legal limit could work with another farmer whose crop's THC concentration is below the legal limit, intermingling the crops and resulting in acceptable THC levels.

[1:50:58 PM](#)

CHAIR PATKOTAK asked whether there are examples in the pilot program of the DNR commissioner either exercising his authority to issue citations, or working with growers who have a crop over the THC concentration limit.

MR. HARDENBROOK responded that he does not know of any examples. He explained that current law states that if a hemp crop is above .3 percent THC, the DNR commissioner "shall" cite the grower as being in violation; however, provisions in HB 156 would allow a farmer who is acting in good faith to address the issue instead of being automatically cited and reported to the Department of Public Safety and Marijuana Control Board.

CHAIR PATKOTAK noted the importance of recognizing when someone is acting in good faith.

[1:52:20 PM](#)

REPRESENTATIVE CRONK asked why there is language in the bill referencing the farming of elk.

REPRESENTATIVE HOPKINS replied that it is legislative drafting style to amend AS 03.05.010(a) to include the sections relating to industrial hemp.

[1:53:24 PM](#)

REPRESENTATIVE HANNAN asked whether there would be a presentation from Division of Agriculture Director Dave Schade.

MR. HARDENBROOK replied that a presentation would be possible when HB 156 comes back up before the committee.

REPRESENTATIVE HANNAN noted that this industry could be successful in Alaska and asked how the pilot programs have gone.

MR. HARDENBROOK deferred to Mr. Schade.

[1:55:39 PM](#)

DAVE SCHADE, Director, Division of Agriculture, Department of Natural Resources (DNR), said that things have gone well this growing season. He introduced Rob Carter, the state agronomist, to provide more information.

[1:56:06 PM](#)

ROB CARTER, Manager, Plant Materials Center, Division of Agriculture, Department of Natural Resources, said that there were 70 acres registered for hemp production in 2020 with 9,000 square feet of indoor growing space in the pilot program. No grower tested over .2 percent, he said, and the Division of Agriculture, in testing 25 varieties of industrial hemp, has not yet experienced a variety that tests above the legal limit. He noted that applications for the 2021 season total 11 growers representing 200 acres.

[1:57:40 PM](#)

CHAIR PATKOTAK asked for a table outlining the industry performance in 2020.

[1:57:57 PM](#)

REPRESENTATIVE HANNAN asked whether cannabidiol (CBD) levels would be tested, or if testing is only to determine THC content.

MR. CARTER answered that the industry is very open with business processes and THC concentration is tested to ensure that a crop is truly industrial hemp instead of recreational cannabis. In 2020, he said, all of the growers shared with the Division of Agriculture the array of uses of their crops including feed and biomass production, bioplastics, pelletized fuel, and wellness products.

[2:00:20 PM](#)

REPRESENTATIVE RAUSCHER asked Mr. Carter about the efficiency of indoor versus outdoor growing operations. He also asked whether the market for industrial hemp is local, nationwide or international.

MR. CARTER explained that indoor production follows a different methodology than outdoor production; industrial hemp for fiber and biomass, when grown on acreage, follows the same planting tactics as barley or corn, with some varieties flowering only because of the long periods of daylight. Indoor production, he said, is more focused on the floral production for CBD wellness products. The market for industrial hemp within Alaska is significant, he said, but in-state production hasn't caught up with the national average; the Division of Agriculture is evaluating the possibilities for large-scale production of bioplastic to be sold and used within the state. He noted that due to the overall clean environment in Alaska, international interest is growing.

REPRESENTATIVE RAUSCHER asked whether manufacturing is catching up to agricultural production.

MR. CARTER responded that in 2020 the growers largely switched to growing food instead of industrial hemp; however, in 2021 there is much more activity in processing and development.

[2:03:50 PM](#)

REPRESENTATIVE GILLHAM asked how the THC percentage in the crops can be controlled, and who does the testing for THC levels.

MR. CARTER replied that the Division of Agriculture maintains the chain of custody from pulling the samples to testing, and the crop can't leave the farm until test results are finalized and provided to the grower.

REPRESENTATIVE GILLHAM noted that recreational marijuana is highly regulated and asked how regulations work with industrial hemp.

MR. CARTER answered that the 2018 Farm Bill identified industrial hemp as an agricultural commodity, and the genetics of the plant keep the THC concentration low.

[2:06:09 PM](#)

REPRESENTATIVE CRONK asked about the best geographic locations for growing industrial hemp.

MR. CARTER replied that in 2020 there were producers on the Kenai Peninsula, in the Matanuska-Susitna Borough, and north of Talkeetna. In 2021, he said, there are producers from Delta Junction and Fairbanks down to Homer, with interest from potential growers in Southeast Alaska. From a biomass perspective, he said, greatest production is expected from just north of the Alaska Range.

[2:07:44 PM](#)

CHAIR PATKOTAK asked about the finances of the pilot program.

MR. HARDENBROOK said that the state is anticipating new state revenues of \$750,000 annually, with potential for growth.

CHAIR PATKOTAK asked whether that figure is based on the performance of the pilot program.

MR. HARDENBROOK answered yes, based on the expected increases across all aspects of the industry.

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REPRESENTATIVE HANNAN asked, "This is the revenue to run the program, correct?"

MR. HARDENBROOK responded that the costs of the program will be covered through program receipts and noted that the fiscal note shows the change in revenues.

REPRESENTATIVE HANNAN asked about the revenue structure.

MR. SCHADE explained that in the pilot program there is a set of registration criteria for growers, manufacturers, and retailers, and he noted that there are 2,000-3,000 retailers in the state with only 200 registered; as registration grows and the program builds, revenues will increase. He said that the majority of fees are expected to come from the retailers as opposed to the growers. He noted that receipts are not kept from one year to the next, so DNR is working with the Office of Management & Budget (OMB) to bridge the funding from one year to the next so that staffing can go uninterrupted.

REPRESENTATIVE HANNAN asked whether there are specific taxes or revenue required to be shared.

MR. SCHADE replied that since industrial hemp is an agricultural product, there are no specific taxes.

[2:12:52 PM](#)

REPRESENTATIVE GILLHAM asked whether industrial hemp businesses are able to use the banking system.

MR. SCHADE said that legally, banking is allowed, and the Division of Agriculture is working to educate the banking industry on the differences between industrial hemp and recreational marijuana. He noted that there are out-of-state banks that service industrial hemp companies.

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REPRESENTATIVE CRONK asked about possible wildlife damage to the crop.

MR. CARTER said that DNR saw "no predation from any animal" in 2020.

REPRESENTATIVE CRONK asked how fast the plants grow.

MR. CARTER responded that plantings in May can be harvested in September.

[2:16:26 PM](#)

CHAIR PATKOTAK opened public testimony on HB 156.

[2:16:45 PM](#)

EMBER HAYNES testified in support of HB 156 and noted that her business is in its second year in the pilot program. She expressed that there are many small-scale growers in Alaska who would like to grow industrial hemp.

[2:18:34 PM](#)

CHAIR PATKOTAK, after ascertaining that no one else wished to testify, closed public testimony on HB 156.

[2:19:04 PM](#)

REPRESENTATIVE HOPKINS noted that there are a number of growers already operating, and that ensuring compliance with federal regulations will be important in continuing the momentum of this industry.

[HB 156 was held over.]

[2:20:19 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:20 p.m.